

ARTICLE 16

SECTION 3

MEDI-CAL ESTATE RECOVERY

1. GENERAL

This section contains information regarding the Medi-Cal/Estate Recovery Program administered by the state.

2. PROGRAM REQUIREMENTS

A. The state will claim against the estate of a decedent, or any recipient of the decedent's property by distribution or survival, an amount equal to the lesser of:

- 1) The payments for the health care premiums and services provided; or
- 2) The value of the decedent's interest in the property received.

B. Payments for health care premiums and services provided to individuals, for Estate Recovery purposes, are:

- 1) Age 65 or older, who died prior to July 11, 1994, shall include all payments for services provided at age 65 and older;
- 2) Age 65 and older, who died on or after July 11, 1994, shall include all payments for services provided at age 65 and older, added to any payments for services provided at age 55 to 64 that were paid on or after October 1, 1993;
- 3) Age 55 to 64, who died on or after July 11, 1994, shall include only those services paid on or after October 1, 1993.

Exception: The state may not make a claim in any of the following circumstances.

- a) The decedent was under age 55 when the services were provided;
- b) During the lifetime of a surviving spouse;
- c) There is a surviving child under 21; or
- d) There is a surviving child who is blind, or permanently and totally disabled, within the meaning of Section 1614 of the Federal Social Security Act.

3. COUNTY RESPONSIBILITY

The County must notify the state via MEDS of each aged person who is discontinued from Medi-Cal due to death. Use discontinuance Code 001 which will automatically transmit this information to the state.

4. NOTIFICATION

- A. Within 90 days of the date of death of an individual who may have received Medi-Cal benefits, the attorney for the estate, or if there is no attorney, the person responsible for the property of the decedent, must give notice to the Director of the California Department of Health Services (CDHS) of the decedent's death, including a copy of the death certificate.
- B. CDHS shall provide written notice informing the person handling the decedent's estate of the basis for the estate claim, including a copy of the itemized Medi-Cal payments that constitute the basis for the claim, and the right to an estate hearing.

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#10

5. ESTATE HEARING

A person seeking a waiver or reduction from the state's estate claim may request an estate hearing within 60 days from the date of the estate recovery notice, and may choose to either:

- A. Complete and submit an application and all supporting documentation explaining the claimed hardship or miscalculation, or
- B. Request an estate hearing before a hearing officer.

6. HARDSHIP WAIVERS

Heirs can apply through the Department of Health Services for a hardship waiver. SB 177 (CHAPTER 1201, STATUTE of 1989) requires CDHS to waive Medi-Cal creditor's claims when enforcement would result in substantial hardship to heirs. All creditor's claims issued by CDHS after April 6, 1990 will include a statement about hardship waivers and how to apply.